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Human rights and international solidarity**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on human rights and international solidarity, Virginia Dandan, submitted in accordance with Human Rights Council resolution 26/6.

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Report of the Independent Expert on human rights and international solidarity

Summary

The present report is submitted to the General Assembly by the Independent Expert on human rights and international solidarity, Virginia Dandan, in accordance with Human Rights Council resolution 26/6. In a previous report submitted to the Human Rights Council in 2015 (A/HRC/29/35), the Independent Expert began her exploration of how international solidarity, as a principle underpinning international law, should be understood within the context of the proposed draft declaration on the right to international solidarity. Building on that report, in the present report the Independent Expert examines preventive solidarity and international cooperation, the constituent components of international solidarity, within the context of the proposed draft declaration on the right of peoples and individuals to international solidarity.

As mandated by the Human Rights Council in its resolution 26/6, the text of the proposed draft declaration is the focus of a series of regional consultations being conducted in 2015 and early 2016. Two consultations have been held to date: one with the group of Western European and other States and the group of Eastern European States in Geneva in April 2015, and the other with the group of African States in Addis Ababa in July 2015. The next regional consultations will be held with the group of Latin American and Caribbean States in Panama City in September 2015, and with the group of Asia-Pacific States in Suva in November 2015.

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I. Introduction

1. The present report highlights preventive solidarity and international cooperation as the constituent components of international solidarity within the context of human rights, focusing on their international normative bases and as exemplified by the practices of States. The topic is fully consistent with the mandate of human rights and international solidarity as established by the Commission on Human Rights, the predecessor to the Human Rights Council. It is also in keeping with the request by the Council, contained in its resolution 9/2, for the Independent Expert to further develop guidelines, standards, norms and principles with a view to promoting and protecting the right of peoples and individuals to international solidarity. As such, while the Independent Expert acknowledges with deep respect the many time-honoured forms of solidarity firmly enshrined and practiced within the diverse cultural traditions all over the world, as well as the historical habits of cooperation between peoples that have been nurtured over the course of many generations, those practices are not included in the following discussion, the scope of which must remain within the bounds of the proposed draft declaration on the right of peoples and individuals to international solidarity (A/HRC/26/34, annex). In more practical terms, this report will also be a useful reference in the ongoing series of regional consultations on the proposed draft declaration being held in 2015 and early 2016 pursuant to the decision of the Human Rights Council in that regard, as contained in its resolution 26/6. The outcome of those regional consultations, which will include detailed and critical analysis of the draft declaration, will be the subject of subsequent reports by the Independent Expert.

II. International normative basis for international solidarity, together with its constituent components: preventive solidarity and international cooperation

2. This part of the report briefly describes a framework that links international law and international solidarity and, by extension, the constituent components of the latter — preventive solidarity and international cooperation — that are explored herein. The framework derives from three general sources: the Charter of the United Nations; the Universal Declaration of Human Rights and the international human rights treaties; and the multitude of commitments relating to human rights and development that have been adopted by States during United Nations international conferences and summits and in resolutions of the General Assembly.

3. The Universal Declaration of Human Rights, being the antecedent to the international human rights treaties, holds a privileged place, preceded only by the Charter of the United Nations, as set out in the discussion below.

A. Charter of the United Nations

4. Article 1 of the Charter of the United Nations, which calls for collective measures for the prevention and removal of threats to peace, implicitly anchors the Organization in the principle of international solidarity. Article 1.3 specifically states that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or

humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms. Similarly, Article 55 asserts that the Organization shall promote higher standards of living, full employment and conditions of economic and social progress and development, solutions to international economic, social, health, and related problems, international cultural and educational cooperation and universal respect for, and observance of, human rights and fundamental freedoms. Furthermore, Article 56 can be understood as establishing international legal obligations regarding international cooperation as the Members of the Organization pledge to take joint and separate action, in cooperation with the Organization, for the achievement of the purposes set forth in Article 55, which includes promoting solutions to international economic, social, health and related problems, as well as international cultural and educational cooperation.

B. Universal Declaration of Human Rights

5. Article 22 of the Universal Declaration of Human Rights encompasses the concepts of preventive solidarity and international cooperation, stating that everyone "has the right to social security and is entitled to realization, through national effort and international cooperation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality". Social security is both a safeguard and a safety net aimed at, on the one hand, mitigating social and economic risks related to, for example, health, livelihood and disability, and, on the other hand, providing assistance to those who are unable to fend for themselves, thus having both preventive and reactive functions. Article 28 provides that everyone "is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized", which evokes the vital role of preventive solidarity and international cooperation in the creation of that order.

C. International human rights treaties

6. Preventive solidarity and international cooperation, the essential features of international solidarity, are safeguards of the freedoms and entitlements already codified in existing international human rights treaties on economic, social and cultural rights, civil and political rights, the right to development and international labour standards. Ratification of such treaties constitutes explicit consent by States to be bound by treaty obligations to respect, protect and fulfil human rights and to take the necessary steps to prevent and put an end to human rights violations, denials and neglect. Every State that ratifies such a treaty thus becomes party to a collective and universal preventive solidarity endeavour.

7. Article 2.1 of the International Covenant on Economic, Social and Cultural Rights provides that States parties "take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized" in the Covenant. The centrality of both prevention and cooperation is affirmed in article 11.1 of the Covenant, which provides that States parties:

> recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

8. Article 22 of the International Covenant stipulates that the Economic and Social Council may bring to the attention of the relevant United Nations bodies any matters arising out of the reports submitted under the Covenant "which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective, progressive implementation of the present Covenant". In the same context, article 23 goes a step further by specifying that the methods for international action for the achievement of the rights recognized under the Covenant include the "conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned". That provision can be interpreted as establishing an approach or methodology that should inform international cooperation and agreements between and among States and, in effect, also supports the principle of extraterritorial obligations of States in the area of economic, social and cultural rights.

9. The provisions of the International Covenant underline the role of international cooperation and assistance in facilitating the fulfilment of human rights. In that regard, the Committee on Economic, Social and Cultural Rights has emphasized that, in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the Covenant itself, international cooperation is an obligation of all States.[1] The provisions are reiterated in article 14 of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights regarding international assistance and cooperation and are further supported by article 14.3, which states that a "trust fund shall be established ... with a view to providing expert and technical assistance to States Parties ... for the enhanced implementation of the rights contained in the Covenant, thus contributing to building national capacities in the area of economic, social and cultural rights".

10. The Convention on the Rights of the Child, in its preamble, considers that solidarity is among the ideals proclaimed in the Charter. Article 4 of the Convention provides that, "with regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. Thus, as noted in general comment No. 5 of the Committee on the Rights of the Child, when States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to global implementation. In the same general comment, it was emphasized that implementation of is a cooperative exercise for the States of the world, which explicitly encompasses international cooperation and the extraterritorial nature of the human rights obligations of States.

[1] E/1991/23, annex III, general comment No. 3, The nature of States parties obligations, para. 14.

11. Similarly, it is stated in article 4.2 of the Convention on the Rights of Persons with Disabilities that, with regard to economic, social and cultural rights:

> Each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

12. Article 32 of the Convention is a comprehensive provision on international cooperation. Pursuant to that article, States parties agreed to recognize the importance of international cooperation and its promotion in support of national efforts for the realization of the purpose and objectives of the Convention, and to undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities.

D. United Nations declarations in the field of human rights and development

13. The preamble of the proposed draft declaration refers to the overwhelming manifestation of international solidarity expressed by States in the "multitude of commitments and promises relating to human rights and development" and cites a few examples, most notably the Declaration on the Right to Development of 1986, the Vienna Declaration and Programme of Action of 1993, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development of 1995, the Beijing Declaration and Platform for Action of 1995 and the Millennium Declaration of 2000.

14. Although a complete listing and examination of all the relevant declarations of the United Nations is beyond the scope of this report, the Independent Expert reiterates and reaffirms that, pursuant to Articles 55 and 56 of the Charter, in order to achieve the purposes of the United Nations as set out therein, there is a need for cooperation among States. Three illustrative examples are presented below.

15. Pursuant to the fourth principle of the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV), annex), States have the duty to cooperate with one another in accordance with the Charter, and, in particular:

(a) States shall cooperate with other States in the maintenance of international peace and security;

(b) States shall cooperate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention.

The seventh principle of the Declaration requires that "States shall fulfil in good faith the obligations assumed by them in accordance with the Charter".

16. The General Assembly, in the closing paragraph of the Declaration, concluded with the following statement: "The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles." This strongly worded declaration sets forth specific obligations for States arising from the Charter, which is in itself an instrument of international solidarity.

17. In the preamble to the 1986 Declaration on the Right to Development, the General Assembly recognized the principles and values relating to collective acts of cooperation and solidarity on which the operative paragraphs were based. Article 2 of the Declaration focuses on three parties: the human person, all human beings, and States — and the relationship between them. Articles 3 and 4 emphasize the duty of States to cooperate in ensuring development and in eliminating obstacles to development. In particular, article 4 makes it clear that sustained action is required to facilitate progress in developing countries, and that "as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with the appropriate means and facilities to foster their comprehensive development". It has been observed that the real basis of the right to development is the obligation to demonstrate solidarity, which is linked to articles 1 and 28 of the Universal Declaration of Human Rights.[2]

18. The determination on the part of States to achieve substantial progress in human rights undertakings through increased and sustained international cooperation and solidarity is expressed in the preamble to the 1993 Vienna Declaration and Programme of Action, which also states that it is the aspiration of all peoples to have an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity.

19. All of the above-mentioned instruments require international solidarity for their effective implementation, and the same holds true for the attainment of goals, commitments and decisions made collectively by States, as expressed in the outcome documents from a multitude of United Nations world conferences and summits. One such outcome document, "The future we want", of the United Nations Conference on Sustainable Development, was agreed upon by heads of State and Government in Rio de Janeiro in 2012. The draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda, "Transforming our world: the 2030 Agenda for Sustainable Development",[3] contains the 17 goals that constitute the commitment of the international community aimed at, inter alia, ending poverty, hunger and gender inequality, achieving food security and ensuring water and sanitation for all, building resilient infrastructure and stemming damage caused by the adverse impact of climate change. Moreover, at the

[2] See Puvimanasinghe, S. (2011), "International solidarity in an interdependent world: Realizing the Right to Development", Office of the United Nations High Commissioner for Human Rights.

[3] https://sustainabledevelopment.un.org/post2015/transformingourworld.

end of 2015, a new globally binding agreement that responds to climate change issues is expected to be negotiated during the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

E. Human rights and the solidarity framework at the regional level

20. A number of regional treaties also incorporate the principle of solidarity and affirm the respect, protection and fulfilment of human rights, including:

(a) The Constitutive Act of the African Union, adopted in 2000, expresses in its preamble the determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States. Article 3 enumerates the objectives of the Union, including to encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights, to promote and protect human and peoples' rights, in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;[4]

(b) The Arab Charter of Human Rights, adopted in 1994, affirms the principles contained in the Charter of the United Nations, the Universal Declaration of Human Rights, the two international covenants on human rights and the Cairo Declaration on Human Rights;

(c) The Charter of the Association of Southeast Asian Nations (ASEAN), adopted in 2007, expresses the will of the member States of the Association to respect and protect human rights and contains a call for coordination and cooperation on the basis of unity and solidarity. In 2012, ASEAN member States also adopted the ASEAN Human Rights Declaration, in which they reaffirmed their commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action and other international human rights instruments to which ASEAN member States are parties;

(d) The Charter of Fundamental Rights of the European Union brings together in a single document the fundamental rights protected within the Union. The rights and freedoms contained in the Charter are: dignity, freedoms, equality, solidarity, citizens' rights and justice. The Charter was proclaimed in 2000 and became legally binding on the member States of the Union with the entry into force of the Treaty of Lisbon in December 2009.[5] Solidarity is the focus of article 188R of the Treaty of Lisbon, in which it is specified that "the Union and its member States shall act jointly in a spirit of solidarity if a member State is the object of a terrorist attack or the victim of a natural or man-made disaster". It is significant to note that no country has ever joined the European Union without first belonging to the Council of Europe. The Council is the continent's leading human rights organization. It includes 47 member States, 28 of which are members of the European Union. All Council member States are signatories to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The work of the Council has resulted in standards, charters and conventions that facilitate cooperation between European countries;[6]

[4] See http://www.au.int/en/sites/default/files/Constitutive_Act_en_0.htm.
[5] See http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm.
[6] See at http://www.coe.int/en/web.

(e) The Charter of the Organization of American States (OAS) was adopted in Bogota in the1948. It is stated in article 1 of the Charter that the goal of the member States in creating OAS was "to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration and to defend their sovereignty, their territorial integrity and their independence".[7] The main pillars of OAS are democracy, human rights, security and development. The American Convention on Human Rights, adopted in 1969, is based on the principles of the Charter of the Organization of American States, the American Declaration on the Rights and Duties of Man and the Universal Declaration of Human Rights. The Convention also established the Inter-American Commission on Human Rights.[8]

III. Preventive solidarity and international cooperation in the context of the proposed draft declaration on the right to international solidarity

21. International solidarity is most often invoked only in the aftermath of calamities such as humanitarian catastrophes, natural disasters, epidemics and, sometimes, in the face of acts of terrorism and other forms of violence. It is indeed in the face of such fearsome and tragic disasters when the need for "international solidarity" is understood and dramatically amplified. The proposed draft declaration specifically provides that international solidarity shall be understood as the convergence of interests, purposes and actions between and among peoples, individuals, States and international organizations to achieve the common goals that require international cooperation and collective action in order to foster peace and security, development and human rights. In that regard, it is necessary that, at all times, States respect the human rights standards set forth in the international human rights treaties that they have ratified and comply with their existing treaty obligations. The Independent Expert emphasizes that international solidarity should not, therefore, be misconstrued as relating in any way to collective action by States that results in the contravention of any of the international human rights treaties to which they are parties. Nor is international solidarity related to any form of collective action undertaken by non-State actors, the outcome of which may, for example, cause harm and violence or perpetuate injustice, inequality, discrimination and exclusion.

22. The proposed draft declaration makes the important point that preventive solidarity and international cooperation are components of international solidarity. Preventive solidarity is the substantive component of international solidarity relating to the human rights standards and obligations that must inform collective initiatives, And international cooperation is the operational component through which the initiatives of preventive solidarity are implemented. As such, international solidarity is achieved only through? the confluence of these elements.

[7] See at https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf.

[8] http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm.

A. Preventive solidarity

23. The Independent Expert views preventive solidarity and reactive solidarity as two sides of the same coin. She emphasizes that the true value of international solidarity lies in the processes that inform collective objectives and acts of preventive solidarity and in their potential outcomes in the long-term. In the long-term, policies and measures can be put in place and implemented to ensure that human rights standards inform the entire process and address the root causes of the denial and violation of human rights where they exist. Preventive solidarity is the normative framework for proactive and purposeful collective acts that anticipate and/or seek to prevent harmful situations before they occur, or to mitigate their adverse consequences once they do occur. Coordinating the implementation of pre-emptive measures to avoid the grave consequences of natural disasters and the creation of national and international reserves for prompt and adequate responses in an emergency are examples of the process of activating preventive solidarity. Oftentimes, the extent to which such preventive processes are effective is only apparent over a period of time. This may explain why preventive solidarity is less recognized and appreciated. On the other hand, reactive solidarity has a shorter time horizon and is often temporary and palliative in the sense that it is mobilized only after an adverse event has occurred. It is not surprising that reactive solidarity is a more familiar form of solidarity, triggered as it is by specific and dire events that require urgent action to assist individuals and populations in distress.

24. In the context of the proposed draft declaration on the right to international solidarity, it is important to stress that both preventive and reactive solidarity should be targeted not only towards alleviating suffering and mitigating further damage, but more importantly, towards effectively ensuring the respect, protection and fulfilment of the range of human rights, whether economic, social and cultural or civil and political, particularly through collective actions by States in compliance with their international human rights obligations under international law. In the case of peoples, individuals and civil society, and their organizations, the proposed draft declaration requires them to complement the efforts of States through their activities in this regard.

25. The origin of the term "preventive solidarity", and how it came to be used in the documents of the Human Rights Council in relation to the issue of rights and international solidarity, is unclear. In its resolution 15/13, the Council explicitly referred to the preventive dimension of international solidarity when it affirmed that:

> Much more is needed, owing to the magnitude of global and local challenges, the alarming increase in natural and man-made disasters, and the continuing rises in poverty and inequality; ideally, solidarity should be preventive rather than simply reactive to massive irreversible damage already caused, and must address both natural and man-made disasters.

26. Subsequently, the term "preventive solidarity" has since been employed by the Council in its resolutions, as well as by the previous Independent Expert, and by some stakeholders that support the mandate of human rights and international solidarity.[9] The present Independent Expert has taken the idea of preventive

[9] See, for example, Council resolutions 18/5, 21/10 and 23/12.

solidarity further, by qualifying it as a constituent component of international solidarity. The impact of preventive solidarity is most evident in the practices of States that respect, protect and fulfil human rights in compliance with the minimum essential obligations stipulated by international human rights treaties.

27. In his report to the fifteenth Human Rights Council (A/HRC/15/32), the previous Independent Expert observed that preventive solidarity must address "the core need for justice and equity at the national and international levels; this is the only long-term, sustainable solution to common challenges faced by the international community". He advocated that "solidarity *ante factum* is preferable to solidarity *post factum*, as it aims at tackling the root causes of poverty on the basis of the wisdom that prevention is better than cure". Solidarity before the event is closely connected with various issues, including world trade, the reform of international institutions, civil society participation, world peace, intellectual property rights, agricultural policies and global migration, that are deliberated upon within the United Nations and other forums.

28. In article 3 (a) of the proposed draft declaration, preventive solidarity is characterized as:

> Collective actions undertaken to safeguard and ensure the fulfilment of all human rights ... Preventive solidarity is essential to achieving both intergenerational and intra-generational solidarity and is a vital component of the duty of States to provide and seek international cooperation and assistance in the implementation of their human rights obligations, particularly their core obligations.

29. This formulation is being discussed further at the regional consultations mentioned previously and, although it is anticipated that the formulation may be amended eventually, it seems, at this early stage, that the substance of preventive solidarity will remain as it is.

30. The post-2015 development agenda exemplifies preventive solidarity in th context of the proposed draft declaration. The preamble of the draft outcome document for the United Nations summit to adopt the post-2015 development agenda sets the tone of the agenda as a plan for people, the planet and prosperity, with all countries acting in "collaborative partnership". It reflects the resolve of world leaders "to free the human race from the tyranny of poverty and want and to heal and secure our planet" by shifting the world onto a sustainable path, embarking on a collective journey where "no one will be left behind". The agenda goes further than its predecessor, the Millennium Development Goals, beyond the "continuing development priorities such as poverty eradication, health, education and food security and nutrition" to include "a wide range of economic, social and environmental objectives".

31. The proposed agenda is guided by the Charter and international law, grounded in the Universal Declaration of Human Rights and informed by other instruments such as the Declaration on the Right to Development. It contains reaffirmation of all of the principles of the Rio Declaration on Environment and Development, including the principle of common but differentiated responsibilities. The agenda envisions a "world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination ... permitting a full realization of human potential and contributing to shared prosperity".

32. Most important, in the light of the proposed draft declaration, the following reference is made to the 17 goals and 169 targets of the sustainable development agenda:

> Never before have world leaders pledged common action and endeavour across such a broad and universal policy agenda. We are setting out together on the path towards sustainable development, devoting ourselves collectively to the pursuit of global development and of a "win-win" cooperation, which can bring huge gains to all countries and all parts of the world ... for today's generation and for future generations. In doing so, we reaffirm our commitment to international law and emphasize that the Agenda will be implemented in a manner that is consistent with the rights and obligations of States under international law.

33. The above quotations have been reproduced because of their relevance to understanding the notion of preventive solidarity as a component of international solidarity. Implementation of the sustainable development agenda will begin in January 2016. The agenda, consisting of the 17 sustainable development goals and the associated targets, constitutes a collective plan of action for preventive solidarity. In endorsing the agenda, world leaders will commit themselves to implementing the sustainable development goals in a manner that is consistent with the rights and obligations of States under international law. The obligations of States under international law include their international human rights treaty obligations, which constitute the substance of preventive solidarity. Collective action through international cooperation will then be required to actualize international solidarity.

B. International cooperation

34. The collective act of preventive solidarity on the part of States, as described above, is a complement to the duty of international cooperation, which is premised on the reality that some States may not possess the resources necessary to comply with their human rights obligations, and should thus seek and consequently receive assistance in that regard from other States as well as from international organizations. That reality clearly demonstrates that the preventive value of international solidarity through international cooperation is essential and obligatory, rather than perfunctory and optional, particularly with regard to the capacity of a State to comply with its core obligations.

35. The notion of "core obligations" derives from general comment No. 3 of the Committee on Economic, Social and Cultural Rights (E/1991/23, annex III), which refers to the core obligation of States parties to satisfy the minimum essential levels of each of the rights protected by the International Covenant on Economic, Social and Cultural Rights. According to the Committee, when grouped together, the core obligations establish an international minimum threshold that all development policies should be designed to respect. It is particularly incumbent on all those who can assist to help developing countries respect that international minimum threshold[10] Core obligations are immediate and non-derogable, and they continue to exist even in times of conflict, emergency and natural disaster.[11] The immediacy of

[10] E/C.12/2001/10 (2001), para. 17.

[11] Ibid., para. 18.

core obligations is the reason why the Maastricht Principles on the Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights require States "prioritize core obligations to realize minimum essential levels of economic, social and cultural rights, and move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights".[12]

36. International cooperation as a duty is clear, as in the preceding paragraphs. In more recent practice, States, particularly members of the Organization for Economic Cooperation and Development (OECD), have committed to allocating 0.7 per cent of their gross national income to overseas development assistance. States should bear in mind that the duty of international cooperation should be implemented without conditionality and on the basis of mutual respect, in accordance with the purposes of the Charter and with due respect for the sovereignty of States, taking into account national priorities upon which all States have a right to freely decide. This is in consonance with international solidarity, bearing in mind the preamble of the proposed draft declaration that reaffirms international solidarity as a much broader concept, extending beyond aid, charity or humanitarian assistance. International solidarity includes the sustainability of international relations, especially in the economic field, equal partnerships and the equitable sharing of benefits and burdens.

Modes of international cooperation for development: North-South, South-South and triangular cooperation

37. The following discussion of the three modes of international cooperation for development is meant to be illustrative rather than extensive. The term "international cooperation for development" is used to narrow the meaning of international cooperation to its characteristics as the operational component of international solidarity, while at the same time connoting its purpose or intention, that is, for development. The three modes of international cooperation in question — North-South cooperation, South-South cooperation and triangular cooperation — are interlinked. These terms, which indicate the directional flow of assistance from origin to destination, have, over the years, become ever more salient.

38. In simple terms, North-South cooperation is the "traditional" form of international cooperation for development, which flows from developed to developing countries, while South-South cooperation is horizontal, flowing from one developing country to another. South-South cooperation is not a substitute for, but rather a complement to, North-South cooperation. North-South cooperation is based on historical responsibilities and on the difference in economic levels between the North and the South. Tripartite collaboration and South-South-North partnerships are known as triangular cooperation. Triangular cooperation is the result of technical cooperation among two or more developing countries (i.e., South-South) that is supported, through financial, technical or other means, by northern donors or by international organizations.

39. There is some confusion surrounding the meanings of "development assistance", "development cooperation" and other similar terms. The term "foreign aid" seems to be the most familiar, serving as a catch-all term indicating foreign assistance, specifically North-South assistance. In its broadest sense, foreign aid can

[12] https://www.fidh.org/IMG/pdf/maastricht-eto-principles-uk_web.pdf.

consist of all types of resources — physical goods, skills and technical know-how, financial grants or gifts, and loans at concessional rates — transferred from donors to recipients.[13] The "donor-recipient" dynamic has been the topic of numerous studies and analyses, as well as debates over the many issues, including conditionalities and so-called "tied aid". A narrower type of foreign aid flowing from rich countries to poor countries that helps to address human suffering or poverty and development is often referred to as "development aid" or "development assistance".

North-South cooperation

40. The most substantial work to develop a definition of aid has been carried out by the OECD Development Assistance Committee, which has considered only the part of overall aid provided by donor Governments to poor countries, which it referred to as "official development assistance", better known since then as ODA. The definition of ODA agreed upon by the Development Assistance Committee in 1969, and further refined in 1972, is as follows:

> ODA consists of flows to developing countries and multilateral institutions provided by official agencies, including state and local governments, or by their executive agencies, each transaction of which meets the following two criteria: (1) it is administered with the promotion of the economic development and welfare of developing countries as its main objective, and (2) it is concessional in character and contains a grant element of at least 25 per cent (calculated at a rate of discount of 10 per cent).[13]

41. This definition does not include all development aid, and it excludes funds raised and allocated by private organizations, non-governmental organizations or individuals. ODA from OECD member States mostly consists of North-South cooperation. The benchmark for the allocation of ODA agreed upon by OECD member States is 0.7 per cent of gross national income.

42. The international development cooperation activities of Norway, implemented by the Norwegian Agency for Development Cooperation, provide one example of North-South cooperation. In its fifth and most recent periodic report to the Committee on Economic, Social and Cultural Rights in 2012 (E/C.12/NOR/5), Norway provided information regarding its international cooperation activities. Norway informed the Committee that, in its budget for 2009, it had achieved its objective of allocating 1 per cent of its gross national income to ODA, exceeding the 0.7 per cent OECD benchmark. International human rights conventions form the normative basis for Norway's development policy, which seeks to promote human rights through development cooperation.

43. According to the report, peacebuilding, human rights and humanitarian assistance comprise one of the five main priorities of the development policy of Norway. Human rights obligations form the basis for dialogue with the Governments of the various recipient countries, with a view to enhancing their ability to protect and promote human rights. Potentially vulnerable and marginalized groups, such as children, women, persons with disabilities and indigenous peoples, are priority groups for Norwegian-funded development programmes and projects. Norway's contributions to the realization of economic, social and cultural rights in

[13] See Riddell, R., *Does Foreign Aid Really Work?*, Oxford University Press, New York (2008).

other countries are enumerated in the report. The relevant fields of Norway's international development cooperation engagement include health, education, housing, water, decent work, humanitarian assistance, climate change and sustainable development.

South-South and triangular cooperation

44. The global development cooperation landscape is changing rapidly. Developing countries and emerging economies have become key actors not only in trade and investment, but also in global and regional development. Since the adoption of the Buenos Aires Plan of Action for Promoting and Implementing Technical Cooperation among Developing Countries in 1978, South-South cooperation has been steadily gaining momentum and has shown encouraging trends. For the purposes of the present report, the Independent Expert cites the note by the Secretary-General containing the framework of operational guidelines on United Nations support to South-South and triangular cooperation (SSC/17/3), which draws on the outcome document of the High-level United Nations Conference on South-South Cooperation of 2009, to define South-South cooperation for development as:

> A process whereby two or more developing countries pursue their individual and/or shared national capacity development objectives through exchanges of knowledge, skills, resources and technical know-how, and through regional and interregional collective actions, including partnerships involving Governments, regional organizations, civil society, academia and the private sector, for their individual and/or mutual benefit within and across regions. South-South cooperation is not a substitute for, but rather a complement to, North-South cooperation.

45. In the same document, there is the following working definition of triangular cooperation:

> Triangular cooperation involves Southern-driven partnerships between two or more developing countries, supported by a developed country(ies) or multilateral organization(s), to implement development cooperation programmes and projects. Evidence shows that, in many instances, Southern providers of development cooperation require the financial and technical support and expertise of multilateral and/or developed-country partners in the course of assisting other developing countries. Northern partners also benefit by being able to take advantage of increased institutional capacity in the South and to increase the impact of their aid disbursements by leveraging the resources of multiple Southern partners. Developed countries have increasingly expressed strong support for this approach to development and a willingness to share their experience and lessons learned, as long as the triangular cooperation process is led and owned by Southern actors in order to achieve development results.

46. A comprehensive discussion of South-South cooperation, in all its diverse and multifaceted forms, is not possible in this report, and the same holds true for triangular cooperation. However, the key principles of South-South cooperation should not be overlooked. South-South cooperation is a common endeavour of peoples and countries of the South, based on shared experiences, common objectives, mutual respect and solidarity. It is guided by the principles of respect for

national sovereignty, ownership and priorities as defined by national development plans and strategies. It is a partnership among equals and free from conditionalities. It embraces a multi-stakeholder approach that includes non-governmental organizations, the private sector, civil society, academia and other stakeholders who work towards meeting development challenges and objectives in line with national development strategies and plans.

47. There are numerous examples of South-South cooperation which could be featured as examples in this report. The Independent Expert shares instead her first-hand account of the information she gathered in a country study visit to Brazil, where she observed the policies and practices of Brazil in its international development cooperation programmes that fall within the rubric of South-South cooperation and triangular cooperation (see A/HRC/23/45/Add.1). Brazil is one of the few countries in the world to have achieved most of the Millennium Development Goals ahead of the 2015 deadline.[14]

48. The principles set forth in the Federal Constitution of Brazil, such as national independence, the prevalence of human rights, self-determination, non-intervention and cooperation among peoples for the progress of mankind, which govern the international relations of Brazil, have also shaped the features of its cooperation activities. Brazil seeks to contribute to the social and economic progress of other countries through the sharing of lessons learned, knowledge gained from successful experiences and best practices. Brazil makes use of solutions created and developed domestically to support other countries facing similar difficulties in overcoming obstacles to their development.

49. Brazilian cooperation is based on requests received from other countries, with paramount consideration given to their specific needs, and in response to humanitarian appeals from international specialized agencies. There are no conditions imposed and it is not profit-oriented. The cooperation is driven by solidarity and adheres to the requirements of the Constitution of Brazil relating to non-intervention, respect for sovereignty, self-determination and human rights. An important feature of Brazilian technical cooperation is that both partners learn from each other in the exchange of experiences and knowledge, affirming "reciprocal solidarity" between peoples. It is a participatory engagement in which partner countries are not passive recipients but are actively involved from the initial stage of negotiation, thus ensuring that the cooperation methodology is appropriate to the context of local realities.

50. Agriculture is a major field of Brazil's cooperation with Southern partners. The Brazilian Agricultural Research Corporation, under the Ministry of Agriculture, Livestock and Food Supply, has been one of the most important actors in the country's technical cooperation in agriculture. Its mission is to carry out research and develop innovations in the search for feasible solutions to challenges in the sustainable development of agriculture for the benefit of Brazilian society. The Corporation's work is key to the success of Brazilian tropical agriculture, which has motivated countries with similar problems and challenges to seek information and partnerships with it. International cooperation has been crucial to the establishment and consolidation of the Corporation, which is currently considered to be the most

[14] United Nations Development Programme, "Millennium Development Goals: Achieving the Millennium Development Goals with Equality in Latin America and the Caribbean: Progress and Challenges", August 2010.

advanced tropical agriculture research institute in the world. The Corporation houses 46 research centres and is a major conduit for the cooperation of Brazil with a number of countries to transfer its experiences and technology and to adapt these to local conditions in partner countries. The sharing of best practices between Brazil and developing countries expands the geographic scope of Brazilian cooperation and introduces policies and programmes implemented successfully in Brazil to lift its people out of poverty. Aside from agriculture, the key areas of Brazil's international cooperation for development are food security and nutrition, health, education and vocational training, with partner countries, including the Portuguese-speaking African countries: Angola, Cabo Verde, Guinea-Bissau, Mozambique and Sao Tome and Principe. The key focus for Asian cooperation projects is in East Timor and, more recently, in four of the least developed countries: Afghanistan, Cambodia, Lao People's Democratic Republic and Myanmar.

51. Triangular cooperation, as defined above, complements South-South cooperation agreements, with a third partner providing much needed financial support. Triangular cooperation programmes usually involve a more complex process of coming to an agreement between partners. Brazil implements triangular technical cooperation guided by the same principles that inform its South-South cooperation. Triangular cooperation makes it possible to match the comparative advantage of South-South cooperation with that of other development partners (bilateral and multilateral), leveraging the impact of knowledge-sharing between developing countries. These factors result in a greater positive impact in fostering local development processes.

52. Brazil and its partners in South-South cooperation have implemented or are implementing triangular cooperation agreements with the United States of America, the European Union and its members, Japan, and with countries in Africa and in Latin America and the Caribbean. United Nations agencies, including the Food and Agriculture Organization of the United Nations, the International Labour Organization, the United Nations Population Fund and the World Food Programme, are also playing an important role in Brazil-led triangular cooperation.

53. Another example of triangular cooperation is the partnership of the United Nations Children's Fund (UNICEF) in support of a South-South cooperation programme involving Cambodia and development partners. The objective of the triangular partnership programme, implemented in 2007, was to improve the technical expertise of senior Government officials through appropriate training courses. The UNICEF-supported programmes for Cambodia included:

(a) Participation by officials from the Ministry of Planning Youth and Sports in a course in educational statistics, reporting and planning at the National University of Education, Planning and Administration in India. The University is viewed as a leading centre of excellence for education planning, with a specialty in developing countries. In 2008, the Royal University of Phnom Penh established a masters degree programme in education programming, which may further South-South cooperation through the training of senior education sector officials;

(b) A study tour of government institutions in India for Cambodian officials. The study tour allowed the participating officials to learn from India's experiences in government administration with a view to applying those lessons in Cambodia;

(c) Participation of government teachers in a training programme on child-friendly schools, taught in an annual training programme for Asia-Pacific regional participants in Thailand. Thailand has become the regional hub for training in the child-friendly school approach;

(d) Participation of by officials from the Ministry of Education, Youth and Sports and the Province Office of Education in a bilingual education conference in Bangkok that brought together regional experts and practitioners in the field of bilingual and multilingual education. As a result of the conference, bilateral collaboration developed between Timor-Leste and Cambodia. A delegation from Timor-Leste also visited Cambodia in 2009 as part of the same programme;

(e) Participation of educators from the Ministry of Education, Youth and Sports in a regional early childhood education specialist training seminar in Singapore. The Government of Singapore hosted an annual early childhood education "train the trainer" course. The goal of the course was to equip participants with the practical skills needed to conduct teacher-training programmes in early childhood development in their own countries. As a Government-to-Government initiative, this seminar facilitated bilateral and regional cooperation in early childhood development.

IV. Conclusion and recommendations

54. **The Independent Expert reiterates that preventive solidarity and international cooperation are the constituent components of international solidarity. Preventive solidarity is the substantive component of international solidarity relating to the human rights standards and obligations that must inform collective agreements and initiatives. International cooperation is the operational component, through which preventive solidarity agreements and initiatives are implemented. As such, international solidarity is actualized only through the confluence of both preventive solidarity and international cooperation.**

55. **The proposed draft declaration on the right to international solidarity is the focus of attention at the ongoing regional consultations being held in 2015 and early 2016. It is symbolic and auspicious that these consultations will take place at nearly the same time as two major United Nations events, namely the United Nations summit for the adoption of the post-2015 development agenda and the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, at which two documents that will affect the future of human development are to be adopted by Member States. In this regard, the Independent Expert emphasizes that the most important message of the present report is that international solidarity is vital and crucial to the achievement of the sustainable development goals, which will take effect in January 2016, and to the climate agreement to be forged at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.**

56. **The present report clarifies the content of international solidarity in the context of the United Nations, and a more careful reading would bring to the fore the reasons behind the claim that international solidarity is indispensable the promise of transforming our world by 2030. Although the proposed draft**

declaration on the right to international solidarity has not yet been adopted, it already has the potential to be used as a powerful tool in these challenging and disturbing times.

57. There is no single country in the world that is spared from the global threats of the twenty-first century. Although it is true that States are responsible for national implementation of their human rights obligations, our globalized world has become more and more interdependent, and no country, whether wealthy or poor, can surmount its human rights challenges alone and without assistance in one form or another from the international community. International cooperation as a duty is a clear recognition of that interdependence. States that recognize international cooperation as a duty acknowledge the universality not only of human rights but of humanity itself, and realize that what happens to one State has repercussions for the well-being of the entire planet.

58. The Independent Expert respectfully submits that the time for international solidarity has come and calls on the States Members of the United Nations to explicitly recognize the value of international solidarity to its operations. She requests their cooperation in the ongoing regional consultations and asks that they claim ownership of the draft declaration through the active participation of their delegations and Governments at these regional consultations. The Independent Expert further requests full support for and cooperation with her activities and other efforts to promote the recognition of international solidarity not only as a principle but as a right of peoples, individuals and States.